IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

CHAZ RICHARD,)
Plaintiff,)
v.) Case No. 21-cv-05727
MOXIE SOLAR, INC.,)
Defendants.)

<u>DEFENDANT'S AMENDED AFFIRMATIVE DEFENSES</u> <u>TO PLAINTIFF'S COMPLAINT</u>

NOW COMES, the Defendant, MOXIE SOLAR, INC., by and through its attorneys, DOHERTY & PROGAR LLC, and for its Amended Affirmative Defenses to the Plaintiff's Complaint, states as follows:

FIRST AFFIRMATIVE DEFENSE

- 1. The Plaintiff's damages have been caused by his own fault, actions or inactions, which were not rooted in his refusing to violate safety rules, raising safety concerns to the safety manager, protesting safety violations, refusing to violate the law, or any complaints to an outside governmental agency.
- 2. The Plaintiff was terminated for a combination of factors that included lying about his supervisor, yelling and approaching his supervisor in a threatening manner, and for twice not showing-up for work without notifying his supervisor. Further, that during that time period, the Plaintiff told co-workers that he wanted to get fired and collect unemployment.
- 3. That on July 14, 2021, the Plaintiff was standing in the parking lot telling people, including his co-worker, Ryan Williams, that he wanted to get fired so he could collect unemployment, and that when Ryan Plock pulled into the parking lot, the Plaintiff ran across the parking lot, pointing at Plock and yelling at Plock in a threatening manner.

4. That on July 2, 2021 and July 5, 2021, the Plaintiff did not show-up for work and did

not notify the Defendant that he would not be at work or call in with an acceptable reason for the

absences.

5. That the Plaintiff was written up as a "no call no show" for the absences on July 2,

2021 and July 5, 2021.

6. That the Plaintiff was written up for the disrespectful manner in which he spoke to

Ryan Plock on July 14, 2021 and the misrepresentation of facts that the Plaintiff made when he

called Joe Butterbaugh on July 12, 2021.

7. That the Defendant terminated the Plaintiff on July 14, 2021 for the combination of

lying, aggressive and abusive behavior and for twice in a row not notifying his supervisor that he was

not coming to work.

SECOND AFFIRMATIVE DEFENSE

The Plaintiff has failed to mitigate, or reasonablely attempted to mitigate, his damages, if

any, as required by law and the claims in his Complaint should therefore be barred in whole or in

part.

Respectfully submitted,

MOXIE SOLAR, INC.

By: /s Joseph Pierotti

Joseph Pierotti

One of its Attorneys

Michael R. Luchsinger, Esq. (ARDC #: 6311505)

Joseph Pierotti, Esq. (ARDC #: 6225847)

DOHERTY & PROGAR LLC

200 West Adams Street, Suite 2220

Chicago, IL 60606

(312) 630-9630 / (312) 630-9001 (Fax)

Service via e-mail accepted: mail@doherty-progar.com

Via e-mail: mrl@doherty-progar.com

Via e-mail: jp@doherty-progar.com

2

CERTIFICATE OF SERVICE

I, Joseph Pierotti, certify that on January 27, 2022, a true and correct copy of the foregoing was served and filed using the Court's ECF system, through which this document is available for viewing and downloading, causing a notice of electronic filing to be served upon all counsel of record.

/s/ Joseph Pierotti, Esq.
Joseph Pierotti, Esq.